
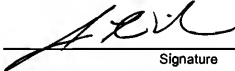


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PTO/SB/33 (07-05)

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PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional) 1001.2337101	
I hereby certify that this paper(s) is being electronically transmitted to the United States Patent and Trademark Office at "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450"		Application Number 11/679,049	Filed OCTOBER 3, 2003
on <u>AUGUST 22, 2008</u>		First Named Inventor JAN WEBER	
Signature <u></u>		Art Unit 3734	Examiner KEVIN THAO TRUONG
Typed or printed name <u>THU H. LE-TO</u>			
Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request. <input checked="" type="checkbox"/>			
This request is being filed with a notice of appeal. <input checked="" type="checkbox"/>			
The review is requested for the reason(s) stated on the attached sheet(s). <input checked="" type="checkbox"/> Note: No more than five (5) pages may be provided.			
I am the			
<input type="checkbox"/>	applicant/inventor.	Signature	
<input type="checkbox"/>	assignee of record of the entire interest.	J. SCOT WICKHEM	
	See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)	Typed or printed name	
<input checked="" type="checkbox"/>	attorney or agent of record.	612.677.9050	
	Registration number <u>41,376</u>	Telephone number	
<input type="checkbox"/>	attorney or agent acting under 37 CFR 1.34.	<u>August 22, 2008</u>	
	Registration number if acting under 37 CFR 1.34 _____	Date	
NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below".			
<input type="checkbox"/> *Total of _____ forms are submitted.			

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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P A T E N T

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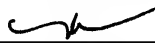
Applicant:	JAN WEBER et al.	Confirmation No.:	5336
Serial No.:	10/679,049	Examiner:	KEVIN THAO TRUONG
Filing Date:	OCTOBER 3, 2003	Group Art Unit:	3734
Docket No.:	1001.2337101	Customer No.:	28075
Title:	NANO-ACTUATED MEDICAL DEVICES		

PRE-APPEAL CONFERENCE BRIEF

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Thu H. Le-To

AUGUST 22, 2008

Date

Dear Sir:

Appellants have carefully reviewed the Final Office Action of April 23, 2008. Currently, claims 1-83 remain pending of which claims 9-14, 16-27, and 29-83 were previously withdrawn. Claims 1-8, 15, and 28 have been rejected by the Examiner. Appellants hereby request a pre-appeal conference and file this pre-appeal conference brief concurrently with a Notice of Appeal. Favorable consideration of the claims is respectfully requested.

The Examiner has maintained that claims 1-8, 15, and 28 are anticipated by Normann (U.S. Patent No. 4,522, 194). Norman was said to disclose a nanoactuator which may be electrically actuated within a body lumen. Instead, Normann appears to teach a sensor, an inductive leak detector for intra-aortic balloon inflation monitoring, capable of producing a signal suitable for actuating an actuator. The only "actuator" found in Normann appears to be purely electronic, "a latch actuated by the second comparator for deactivating the control system", found in claim 12. The balloon of Normann appears to be inflated by a conventional

gas inflation system of the art. The monitoring device of Normann appears to determine whether the balloon is inflated by monitoring the impedance between an internal, generally axial electrode (22) and an externally applied skin electrode (32) as will be seen in Figure 1. The Examiner has identified element 10 of Figures 1 and 8-9 as a "nanoactuator". Normann, properly, refers to element 10 as "intra-aortic balloon system 10". The balloon (12) of Normann is inflated by connecting catheter (14) to a gas line (18). The only activity which appears to be associated with the inductive leak detector of Normann is a potential deflation of the balloon and triggering of an external alarm upon the detection of a leak as described, for example, at col. 2, lines 22-33. Deflation of the balloon prevents escape of gas into the bloodstream and does not involve electrical energization of a nanoactuator or expansion of a housing within a body lumen. Figures 8-9, cited by the Examiner as disclosing a nanoactuator (10), are identified as a "schematic of a direct current sensing circuit" and "an electrical block diagram of a system for direct current sensing combined with telemetry" respectively. Neither figure includes an actuator or a nanoactuator capable of expansion of a housing within a body lumen. The rejection of claim 1 appears to be inappropriate and Appellants respectfully request that it be withdrawn.

Additionally, for similar reasons, as well as others, claims 2-8, 15, and 28, which depend from claim 1 and include significant additional limitations, are believed to be not anticipated by Normann and Appellants respectfully request withdrawal of the rejections.

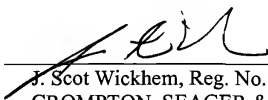
For at least the reasons mentioned above, all of the pending claims are allowable over the cited prior art. Issuance of a Notice of Allowance in due course is requested. If a telephone conference might be of assistance, please contact the undersigned attorney at (612) 677-9050.

Respectfully submitted,

JAN WEBER et al.

By their attorney,

Date: August 22, 2008



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